

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Scott Hutchinson Enterprises, Inc., et al.,	:	Civil Action No. 1:01cv00776
Plaintiffs	:	Judge Weber
v.	:	<b>PLAINTIFFS MOTION FOR LEAVE</b>
Rhodes, Inc., et al.,	:	<b>TO FILE SECOND AMENDED</b>
Defendants	:	<b>SECONDED AMENDED COMPLAINT</b>

Plaintiffs hereby move the Court to file a second amended complaint to add additional parties, defendants Larry Rhodes, Inc., James Zimmer and Jack Geisler, and to state additional claims against the Rhodes defendants, Zimmer and Geisler, as more fully set forth in the attached Memorandum In Support.

Respectfully submitted,

S/William P. Schroeder  
William P. Schroeder (0027123)  
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**Attorney for Plaintiffs**

**MEMORANDUM IN SUPPORT**

The Motion for Leave to File the Second Amended Complaint is supported by the Federal

Rules of Civil Procedure, Rule 15(a). It is based on new information revealed in the course of discovery which requires adding three additional parties, and stating additional claims against them and the "Rhodes" defendants.

On Monday, October 27, 2003, counsel for Plaintiffs took the deposition of Larry Rhodes, believed to have been the principal of Rhodes, Incorporated. During the course of that deposition, the deponent testified that while the company uses the name Rhodes, Inc. on all of its literature, reports, documents, and the like, and further acknowledged that there are, in fact, corporations known as Rhodes, Inc., and Rhodes, Incorporated, the actual legal entity which undertook the allegedly defective work which is the subject of claims in this lawsuit is a Kentucky corporation whose correct corporate denomination is "Larry Rhodes, Inc." The deponent further testified that as a part of its work and the report, a written warranty was issued to the effect that the work would be done in a workmanlike manner consistent with applicable standards of the profession. It was further revealed that the individuals, Zimmer and Geisler, were directly involved in the environmental assessment and report, and both signed the report which contained a written warranty of the work.

Because of the foregoing, Plaintiffs request leave to file a Second Amended Complaint, adding Zimmer, Geisler, and the corporate defendant, Larry Rhodes, Inc., and stating additional claims as set forth in the proposed Second Amended Complaint, attached hereto and tendered as Exhibit A to this Motion and Memorandum.

Respectfully submitted,

S/William P. Schroeder

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**CERTIFICATE OF SERVICE**

I hereby certify that on **November 6, 2003**, I electronically filed the foregoing with the Clerk of the Court using the CM/ECFF system and I hereby certify that I have mailed by United States Postal Service the document to the following:

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